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SUBJECT: CIVIL SERVICE UNIONS THREATEN NOVEMBER 25 STRIKE

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¶1. (U) Summary: Civil service workers intend to strike November 25 to protest the lack of a legal framework for them to collectively bargain or strike. Estimates vary on the reach of the strike but as many as 2.4 million workers may participate. Turkey's lack of legislation to provide these rights is seen as a violation of Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the spirit of the ILO Convention on the Freedom of Association and Protection of the Right to Organise (No. 87). Civil service labor confederations admit that their mechanisms for dialogue with the GOT have been operating dysfunctionally for some time, and assert they are finally ready to strike over these issues because they believe the law is on their side and that the international community is watching. End Summary.

STRIKE: WHO, WHAT, WHERE, WHEN...

¶2. (SBU) On October 12, two of the three public sector employees unions confederations in Turkey -- KESK, which has 11 affiliated public sector employee unions; and KAMU-SEN, which has 12 affiliated public sector employee unions -- declared that they will hold a country-wide "warning strike" on Wednesday, November 25. According to a source at KESK, they are expecting participation of up to 2 million public sector workers, 600,000 of whom are formally employed and active members of KESK, and the remainder of whom are contract workers in public sector jobs. Participation of KAMU-SEN's 376,000 active members would bring the total up to around 2.4 million. Notably, MEMUR-SEN, the third public sector labor confederation which represents 12 affiliated public sector employee unions, said it does not plan to participate in the strike. KESK is contacting the international labor confederations ETUC and ITUC to appeal for expressions or gestures of solidarity. Turk-Is, a confederation of private sector unions that represents 800,000 active members, said that it may provide some symbolic support for the strike, but that it is constitutionally prohibited from performing a "sympathy" strike.

¶3. (SBU) The strike is planned to hold for 24 hours, starting at 12:01 am on November 25. KESK said that "all" industries will be affected by the strike: for example, planes will not fly, trains and ships will not operate, schools will not be open, taxes will not be collected, and customs services will stop. However, KESK and KAMU-SEN plan to reserve some sectors that are essential -- like security or emergency health services -- from participation in the strike. The confederations' administrators are touring provinces in Turkey to organize the strike. KESK said that the confederations' expectations for participation and impact are very high.

¶3. (U) More specific details on the extent of the strike are

elusive -- for example, the extent of the impact on U.S. civilian and military operations. KESK's and KAMU-SEN's unions represent organized workers in the fields of agriculture and forestry, culture and arts, education, energy, health, general office workers, local/municipal services, news reporting, public works, religious workers, and transportation. KESK's unions also represent construction and highway workers, and KAMU-SEN's unions also represent public sector retirees. Labor Attache will continue to press for details from the GOT and the confederations as the strike date draws closer.

... AND WHY

14. (U) KESK said the purpose of the strike will be to protest the lack of legal provision for civil service workers to collectively bargain and strike. The Turkish labor code has separate laws for public sector (Law No. 4688) and private sector workers (Laws Nos. 2821 and 2822). Law 4688 does not allow civil service workers to collectively bargain -- only to "negotiate" with the GOT. While theoretically the process of negotiation should mean all sides can shift their positions, in practice during these meetings the GOT has often provided civil service unions with ultimatums on certain issues that are redlines for the unions, forcing capitulation. In addition, Law 4688 does not authorize recourse to strike, and Article 237 of Turkey's Penal Code criminalizes civil service strikes. Since there is no recourse to strike, in the past civil service employees who organized strikes were arrested because the strikes were declared "illegal." KESK anticipates that during or after the strike the GOT may declare the strike illegal in order to scare members away from participating.

15. (U) However, it appears that the law may lean toward the side of civil service workers on this issue. In November, 2008 the European Court of Human Rights ruled in the Demir and Baykara v. Turkey case that the right to bargain collectively and strike are inherent elements of the freedom of association contained in Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In addition, in July 2009 the International Labor Organization's Executive Committee noted that Turkey has not fully implemented the Convention on the Freedom of Association and Protection of the Right to Organise (No. 87), which Turkey ratified in 1993, despite a visit by a high level ILO mission and constant reminders that the lack of the rights to collectively bargain or strike for civil service workers violates the spirit of that entire convention. Article 90 of Turkey's constitution also reinforces that international treaties that have been ratified are the supreme law of the land, suggesting that the ILO Convention should be implemented even if contrary to the labor code or penal code.

COMMENT

16. (SBU) While the GOT has not made much progress on formalizing the rights to collectively bargain or strike for civil servants, it has been flexible on other issues related to benefits and salary. Also, the GOT has had draft legislation pending in the Turkish parliament to modify Laws 4688, 2821 and 2822, although debate on the legislation has been delayed, according to the GOT, because of local elections and a cabinet reshuffle. The GOT also contends that in order to fully conform with ILO treaty No. 87 they would have to amend the Constitution, which would be a lengthy and complicated process and open up debate on a myriad of unrelated issues. MEMUR-SEN prefers to put pressure on the GOT to amend the Constitution rather than to strike. KESK and KAMU-SEN, however, feel that though they have had an open dialogue with the GOT on these and other issues for a long time, they are finally ready to draw a line in the sand over the lack of a legal right to strike.

JEFFREY

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